

MILITARY

CHAPTER 248

HOUSE BILL NO. 1104

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact sections 37-01-43, 37-04-16, 37-07.2-01, subsection 6 of 37-28-02, and section 37-28-03 of the North Dakota Century Code, relating to the operation of the North Dakota national guard; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-01-43 of the North Dakota Century Code is amended and reenacted as follows:

37-01-43. North Dakota military civil relief act.

A person called or ordered to active service for thirty consecutive days or longer has all of the protections afforded to persons in the military service of the United States under the Servicemembers Civil Relief Act [50 App. U.S.C. sections 501-596] in effect on ~~December 19, 2003~~December 31, 2014.

SECTION 2. AMENDMENT. Section 37-04-16 of the North Dakota Century Code is amended and reenacted as follows:

37-04-16. Retirement and discharge of national guard officers.

Any officer of the national guard who has ~~reached the age of sixty-four years~~federal recognition removed due to age, as proscribed by federal law, must be placed on the retired list by the governor. Any officer who has served as such under a commission in the military service of this state for a continuous period of eight years may be placed, at the officer's own request, upon the retired list with an advance in grade and withdrawn from active service and command by the governor. A commissioned officer must be withdrawn from active service and placed upon the retired list whenever the officer becomes disabled and incapable of performing the duties of the officer's office. A commissioned officer, upon the recommendation of the officer's commanding officer or of an inspecting officer, must be placed by the governor upon the retired list whenever the officer becomes unfit or incompetent for service and thereby incapable of performing the duties of the officer's office. The governor, however, may not order the retirement of an officer until the provisions of section 37-04-17 have been complied with. Vacancies in the commissioned personnel of the national guard caused by the operation of this section must be filled in the same manner as other vacancies in the commissioned personnel are filled.

SECTION 3. AMENDMENT. Section 37-07.2-01 of the North Dakota Century Code is amended and reenacted as follows:

37-07.2-01. National guard tuition grants - Terms of grants.

Any qualifying member of the national guard who enrolls in an accredited postsecondary institution in North Dakota may, subject to the limitations of available appropriated funds and subject to national guard rules adopted by the adjutant general, receive a grant in an amount not to exceed the cost of tuition and fees for similar courses and credit hours for each qualifying member of the national guard who is enrolled at ~~the university of North Dakota~~ North Dakota university system school with the highest tuition and fee rate. Any accredited postsecondary institution that agrees to participate in such a program must waive twenty-five percent of the tuition for qualifying national guardsmen. These grants must be distributed according to rules promulgated by the adjutant general and are available only so long as the member maintains satisfactory performance with the guard, meets the qualification requirements of the rules, and pursues a course of study which satisfies the normal requirements of the school.

SECTION 4. AMENDMENT. Subsection 6 of section 37-28-02 of the North Dakota Century Code is amended and reenacted as follows:

6. "Period of service" means the period of time beginning December 5, 1992, and ending June 30, ~~2011~~2017.

SECTION 5. AMENDMENT. Section 37-28-03 of the North Dakota Century Code is amended and reenacted as follows:

37-28-03. Payment of adjusted compensation for domestic and foreign service.

Each national guard or reserve component resident veteran mobilized stateside is entitled to fifty dollars for each month or major fraction thereof for domestic service. Each national guard, reserve, or active component resident veteran of foreign service who received the expeditionary medal or campaign badge is entitled to one hundred dollars for each month or major fraction thereof. If the veteran received a purple heart for foreign service, the veteran is entitled to a payment of two thousand five hundred dollars in lieu of monthly payments for adjusted compensation related to the mobilization during which the purple heart was earned. If the veteran is deceased, the veteran's beneficiary is entitled to any payments under this chapter to which the veteran would have been entitled. Applications for adjusted compensation may be filed with the adjutant general through June 30, ~~2011~~2017, or in the case of a soldier mobilized on June 30, ~~2011~~2017, not later than six months after the end of the mobilization period of service.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 249

SENATE BILL NO. 2323

(Senators Sorvaag, Burckhard, Carlisle)
(Representatives Kasper, Rohr, Thoreson)

AN ACT to amend and reenact section 37-01-45 of the North Dakota Century Code, relating to the record of veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-01-45 of the North Dakota Century Code is amended and reenacted as follows:

37-01-45. ~~Book~~Record of veterans.

~~The adjutant general shall initiate and coordinate the writing, publishing, and distribution of a record of all North Dakota veterans, including a record of all North Dakotans killed in action and missing in action since statehood. The adjutant general shall determine the projected costs for the completion of the writing, publishing, and distribution of the records and present those projections to the legislative management.~~ collecting of information on North Dakotans who served in a theatre or area of armed conflict since the Vietnam conflict. The adjutant general shall make the information available to the public in a manner that the adjutant general deems advisable.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 250

HOUSE BILL NO. 1208

(Representatives Klemin, Amerman, Belter, Fehr, Hunskor, Keiser, Klein, Maragos,
Trottier)

(Senators Carlisle, Dever, Marcellais)

AN ACT to create and enact a new section to chapter 37-01 of the North Dakota Century Code, relating to honoring certain members of the national guard, the armed forces reserve of the United States, and the active duty forces of the United States as veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-01 of the North Dakota Century Code is created and enacted as follows:

Honoring as veterans individuals who have performed military service.

An individual who has performed service in the national guard, the armed forces reserve of the United States, or active duty armed forces of the United States, has received an honorable discharge from service, and is not otherwise included within the definition of a veteran under federal or state law is, at the completion of that individual's term of service, honored as a veteran, but is not entitled to any benefits or preferences available to veterans by reason of this section.

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 251

HOUSE BILL NO. 1112

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact section 37-17.1-22, subsection 1 of section 37-17.1-23, and section 37-17.1-27 of the North Dakota Century Code, relating to the funding of state disaster or emergency response and recovery; and to provide for an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-17.1-22 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-22. Disaster or emergency response and recovery costs.

Whenever the governor declares a state of disaster or emergency in accordance with section 37-17.1-05, or when the governor enters into an agreement with the federal government following a disaster or emergency declared by the president of the United States, the director of the division of homeland security shall determine and record the costs of the state and local response and recovery operations in accordance with an agreement with the federal government or, in accordance with procedures established by the governor in the case of a state-declared disaster or emergency, and in accordance with procedures established by the state emergency response plan. If the event has met the Stafford Act minimum for a presidential disaster declaration and for which the request is denied, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state and fifty percent of the public infrastructure recovery costs above statutorily maintained emergency funds for counties that exceeds twice the individual county federal declaration eligibility threshold, limited to a maximum amount available per disaster of one million dollars and a maximum amount available per biennium of three million dollars. Immediately following the response or recovery operations, or prior thereto if determined necessary by the governor, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that a disaster or emergency exists, and the commission immediately shall grant and direct the transfer to the department of the governor's designated representative of an amount equal to that certified in such application by the governor.

SECTION 2. AMENDMENT. Subsection 1 of section 37-17.1-23 of the North Dakota Century Code is amended and reenacted as follows:

1. When approved by the emergency commission, the office of the adjutant general is authorized to borrow from the Bank of North Dakota, to respond and recover from state disasters if the event has met the Stafford Act minimum for a presidential disaster declaration for which the request is denied, and to match federal funds under the Robert T. Stafford Disaster

Emergency Assistance Act [Public Law 93-288, as amended]. In addition to the principal repayment, the Bank of North Dakota shall receive interest on the loan at a rate equal to other state agency borrowings. On behalf of the state, the office of the adjutant general shall administer the disaster or emergency recovery program according to state procedures based on federal laws or regulations. After a county or group of counties have been declared a major disaster or emergency area by the governor or president, the office of the adjutant general shall submit a request to the emergency commission for:

- a. Approval to make an application for a loan from the Bank of North Dakota;
- b. Approval for additional personnel required to perform the anticipated recovery activities; and
- c. Authority to spend additional state and federal funds for the recovery program.

SECTION 3. AMENDMENT. Section 37-17.1-27 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-27. State disaster relief fund - Creation - Uses.

There is created in the state treasury a state disaster relief fund. Moneys in the fund are to be used subject to legislative appropriations and emergency commission and budget section approval for providing the required state share of funding for expenses associated with governor-declared or presidential-declared disasters in the state and for the purposes of reimbursing costs under section 37-17.1-28. Any interest or other fund earnings must be deposited in the fund.

SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 2017, and after that date is ineffective.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 252

HOUSE BILL NO. 1107

(Political Subdivisions Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact section 37-17.3-09 of the North Dakota Century Code, relating to public safety answering point service by the division of state radio; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-17.3-09 of the North Dakota Century Code is amended and reenacted as follows:

37-17.3-09. Public safety answering point service and fees.

The division may provide 911 primary public safety answering point services to a political subdivision ~~with that has~~ a population of fewer than ~~twenty thousand and twenty-five thousand at the time an agreement is signed for services with the division.~~ The division shall charge the apportioned amount consistent with the actual costs of providing the primary service per telephone access line and wireless access line ~~for 911 services provided to political subdivisions.~~ The fee for 911 ~~wireless~~ primary public safety answering point services must be charged to and paid by the political subdivision receiving services from the division under this section from and after the date of the agreement entered into by the political subdivision or its designee under section 57-40.6-05, ~~whether the date of that agreement is before or after April 4, 2003.~~ The division may provide primary public safety answering point services and other public safety answering point related services during emergencies and other times of need as agreed in a mutual aid agreement. Charges for services must be specified in the mutual aid agreement. Each ~~county~~ political subdivision currently receiving 911 primary public safety answering point services from the division shall abide by the standards established by law.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 8, 2015

Filed April 8, 2015

CHAPTER 253

HOUSE BILL NO. 1131

(Representatives Schatz, Rohr, Louser, Belter)
(Senators Dever, Armstrong, Klein, Miller)

AN ACT to amend and reenact section 37-19.1-02 of the North Dakota Century Code, relating to the employment preference for veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-19.1-02 of the North Dakota Century Code is amended and reenacted as follows:

37-19.1-02. Public employment preference to veterans - Residency requirements.

1. Veterans are entitled to preference, over all other applicants, in recruitment and selection processes by governmental agencies, provided that such veteran is a United States citizen at the time of application for employment. Veterans qualified for preference may not be disqualified from holding any position with an agency because of physical or mental disability, unless the disability renders them unable to properly perform the duties of the position applied for. To receive veterans' preference, an applicant must submit the following documentation:
 - a. An applicant claiming veterans' preference shall provide a copy of report of separation DD-214.
 - b. An applicant claiming disabled veterans' preference shall provide a copy of report of separation DD-214 and a letter less than one year old from the veterans' administration indicating the veteran's disability status.
 - c. An applicant claiming veterans' preference as an eligible spouse of a deceased veteran shall provide a copy of the marriage certificate, the veteran's report of separation DD-214, and the veteran's death certificate.
 - d. An applicant claiming disabled veterans' preference as an eligible spouse of a disabled veteran shall provide a copy of the marriage certificate, the veteran's report of separation DD-214, and a letter less than one year old from the veterans' administration indicating the veteran's disability status.
2. When a veteran applies for employment to a position that is not being filled through a competitive personnel system, the officer, board, or person whose duty it is to employ an individual to fill the available position shall investigate the qualifications of the veteran. If the veteran is found to possess the qualifications required for the position applied for, whether educational or by way of prior experience, and is physically and mentally able to perform the duties of the position applied for, the officer, board, or person shall employ the veteran. A disabled veteran is entitled to a preference superior to that given other veterans under this section, which preference must be accorded in the manner provided in this section. If the group of eligible individuals includes

either veterans or disabled veterans, the employing authority of that particular agency or governmental agency shall make a selection for the available position as follows:

- a. A disabled veteran is first entitled to the position and, in the absence of justifiable cause, documented in writing, for not making that selection, must be so employed. If the list includes two or more disabled veterans, then the employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing. A disabled veteran from the group of eligible individuals is first entitled to the position and, in the absence of justifiable cause, documented in writing, for not making that selection, must be so employed.
 - b. If the group of eligible individuals does not include one or more disabled veterans and consists only of veterans, then the employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing. A veteran from the group of eligible individuals is first entitled to the position and, in the absence of justifiable cause, documented in writing, for not making that selection, must be so employed.
 - c. If the group of eligible individuals includes nonveterans and veterans, but not disabled veterans, then the employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing. A veteran from the group of eligible individuals is first entitled to the position and must be employed unless there is justifiable cause that is documented in writing for not employing that veteran.
3. When a veteran applies for employment to a position that is being filled through a competitive personnel system, the officer, board, or person whose duty it is to employ an individual to fill the available position shall investigate the qualifications of the veteran. If the veteran is found to possess the qualifications required for the position applied for, whether educational or by way of prior experience, and is physically and mentally able to perform the duties of the position applied for, the officer, board, or person shall employ the following:
 - a. No distinction or discrimination may be made in the administration of the competitive personnel system examination because the applicant may be a veteran.
 - b. Upon receipt of proof required in subsection 1, on a one hundred point scale, the examiner shall add five points for a veteran and ten points for a disabled veteran to the examination grade of the applicant. The total is the veteran's examination score. If a scale other than a one hundred point scale is used, the examiner shall add five percent of the scale used for a veteran and ten percent of the scale used for a disabled veteran to the

- examination grade of the applicant. The total is the veteran's examination score.
- c. The employing authority shall designate a prescribed number of eligible individuals to be considered from the top number of the group of eligible candidates in rank order, from highest to lowest, based on the applicant's final score.
 - d. The employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing.
4. This section does not apply when the position to be filled is that of a ~~superintendent of schools, teacher, an~~ administrative head of a department required by law; or the chief deputy or private secretary of an elected or appointed official; ~~the chancellor and vice chancellors of the board of higher education; and presidents or executive deans, vice presidents, assistants to the president, provosts, instructors, and athletic team coaches of board institutions.~~ Temporary committees and individual or group appointments made by the governor or legislative assembly are also excepted from the provisions of this section. If an exempt position is advertised, the advertisement must state that veterans' preference does not apply to the position being advertised.
5. An employee of a state agency is not eligible for preference when applying for a different job within the same state agency or other state agencies. An employee of a political subdivision is not eligible for preference when applying for a different job within the same political subdivision.

Approved March 16, 2015

Filed March 16, 2015